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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,117	11/14/2001	John William Richardson	PU010258	6840

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EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,117

Applicant(s)

RICHARDSON, JOHN WILLIAM

Examiner

Arrienne M. Lezak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Examiner notes that Claims 1 & 15 have been amended, and no claims have been added or canceled. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 10 February 2005 as reiterated herein below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 & 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, Examiner notes that the specification does not teach, "a cache coupled to the server for storing digital documents sent by the server when ordered by a given number of customers above a threshold amount." In other words, Examiner was unable to find support within the specification for the number of customer orders determining when the document is stored within the cache. As such, and for purposes of examination, the amended claim language will not be considered.

Additionally, Examiner did contact Applicant's representative to ascertain which portion of the specification supports the amended claim language; however, Applicant's representative was unable to provide said support on such short notice and requested issuance of the office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 5, 9-16 & 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of US Patent US 6,647,411 B2 to Towell.

5. Regarding Claims 1 & 15, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, (Col. 1, lines 16-21) over an asynchronous transfer mode (ATM) network, (Col. 3, lines 51-56), comprising the steps of:

- processing a customer request, via an interface, for a digital document, (VoD), received by a server, (storing digital documents), through to a switched ATM network, (Figs. 1-3; Col. 1, lines 10-67; Col. 2, lines 1-6; Col. 3, lines 37-67; & Col. 4, lines 1-64),
(Examiner notes that it would have been obvious to use an interface to enter a customer request as an interactive interface is

well-known in the art as a universal user-friendly means by which individuals may enter information into a network);

- also storing digital documents in a cache located within the ATM network, (Figs. 1-3; Col. 1, lines 10-67; Col. 2, lines 1-6; Col. 3, lines 37-67; & Col. 4, lines 1-64);
- determining whether the digital document is available in a cache system coupled to the ATM network, (Figs. 1-3; Col. 1, lines 10-67; Col. 2, lines 1-6; Col. 3, lines 37-67; & Col. 4, lines 1-64);
- if the digital document is available on the cache system, satisfying the customer request from the cache system; and otherwise, satisfying the customer request from the server, (Figs. 1-3; Col. 1, lines 10-67; Col. 2, lines 1-6; Col. 3, lines 37-67; & Col. 4, lines 1-64).

Thus, Claims 1 & 15 are found to be unpatentable over considerable consideration of the teachings of Towell.

6. Regarding Claims 2 & 19, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, wherein the customer interface unit includes a customer premise unit, which supports digital subscriber line (DSL) technology, (Col. 1, lines 4-67 & Col. 2, lines 1-6). Thus, Claims 2 & 19 are found to be unpatentable over considerable consideration of the teachings of Towell.

7. Regarding Claim 4, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, wherein a network control system is

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coupled to the server for checking the cache to determine if the digital document requested by a customer is stored in the cache, (Figs. 1-3; Col. 1, lines 10-67; Col. 2, lines 1-6; Col. 3, lines 37-67; & Col. 4, lines 1-64). Thus, Claim 4 is found to be unpatentable over considerable consideration of the teachings of Towell.

8. Regarding Claims 5 & 16, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, wherein the server is configured to deliver the document to the cache and to the customer concurrently, (Col. 3, lines 37-67; Col. 4, lines 1-64; & Col. 8, lines 4-12). Thus, Claims 5 & 16 are found to be unpatentable over considerable consideration of the teachings of Towell.

9. Regarding Claim 9, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, wherein the cache is located within the switched ATM network at an edge thereof such that content stored in the cache is obtained from a closest point within the switched ATM network to the customer interface unit, (Col. 6, lines 9-11). Examiner notes that Towell discloses the location of a caching device at any point in the network, which location would obviously include placement of the caching device within close proximity to the user's location such that the content obtained therefrom would be at the closest point within the switched ATM network to the customer interface unit. Thus, Claim 9 is found to be unpatentable over considerable consideration of the teachings of Towell.

10. Regarding Claims 10 & 24, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, wherein a network control system coupled to the server manages content stored in the cache, (per pending Claim

10), by pushing content to the cache system and deleting content from the cache system, (per pending Claim 24), (Figs. 1A & 1B; Col. 3, lines 37-42; Col. 5, lines 16-18; Col. 8, lines 35-62). Thus, Claims 10 & 24 are found to be unpatentable over considerable consideration of the teachings of Towell.

11. Regarding Claims 11, 12, 20, 22 & 23, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, (per pending Claims 11 & 20), (Col. 1, lines 16-21 & Col. 2, lines 37-47), wherein the digital documents include videos and further comprising the step of (remotely) controlling content flow of a data stream of a video from a customer location, (per pending Claims 12 & 22), by one of reversing, fast forwarding or pausing the video, (per pending Claim 23), (Col. 9, lines 50-52). Thus, Claims 11, 12, 20, 22 & 23 are found to be unpatentable over considerable consideration of the teachings of Towell.

12. Regarding Claims 13, 14 & 21, Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand, further comprising a network control system coupled to the customer interface unit and the cache to control access to content stored in the cache or on the server by customers based on user access rights and requests, (Figs 3-5; Col. 5, lines 7-67; & Cols. 6 & 7; Col. 8, lines 1-12). Thus, Claims 13, 14 & 21 are found to be unpatentable over considerable consideration of the teachings of Towell.

13. Claims 3 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent US 6,647,411 B2 to Towell in view of US Patent US 6,640,239 B1 to Gidwani. Towell is relied upon for those teachings disclosed herein.

14. Regarding Claim 3, though Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand via a telephone network, (Col. 3, lines 47-51), Towell does not specifically note wherein the customer interface unit permits customer orders to be placed by a telephone interface. Examiner finds that a telephone interface would be obvious on a telephone network; however Examiner additionally cites Gidwani, which teaches network communication via telephone interfaces, (Gidwani - Fig. 1; Col. 20, lines, 18-67; & Col. 2, lines 1-44). It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the Gidwani telephone interface means into the Towell telephone network, as a telephone interface is an obvious and well-known means of communication upon a telephone network, (Gidwani – Col. 21, lines 6-11 & Fig. 1). Thus, Claim 3 is found to be unpatentable over the combine teachings of Towell in view of Gidwani.

15. Regarding Claim 8, though an obvious network connection within a service like that of Towell, Towell does not specifically enumerate the use of a multiplexer for routing signals on a DSL link. Gidwani discloses the incorporation of DSLAM, (Gidwani – Col. 21, lines 40-44). Thus, Claim 8 is found to be unpatentable over the combine teachings of Towell in view of Gidwani.

16. Claims 6, 7, 10, 17, 18 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent US 6,647,411 B2 to Towell in view of US Patent US 6,640,239 B1 to Gidwani in further view of US Patent Pub. US 2002/0007402 A1 to Thomas Huston. Towell and Gidwani are relied upon for those teachings disclosed herein.

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17. Regarding Claims 6, 7, 17 & 18, though Towell discloses a secured cached subscription service for providing a digital document, (video), on-demand via a telephone network, (Col. 3, lines 47-51), Towell does not specifically note wherein document maintenance within the cache is based on an amount of time, (per pending Claims 6 & 17), or number of orders for the document, (per pending Claims 7, 17 & 18). Thomas Houston discloses a content management system with pre-fetch and time-based expiration, (Thomas Houston – paragraphs # 0055-0058), which system is capable of preferentially treating objects based on any object attribute or access statistics, (Thomas Houston – paragraphs # 0010-0019 & 0062), which attributes would obviously include number of orders for the particular object. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the “expiration” functionality from Thomas Huston into the Towell service for purposes of maintaining updated, refreshed content within a cache storage system of limited capacity. Thus, Claims 6, 7, 17 & 18 are found to be unpatentable over the combined teachings of Towell, Gidwani & Thomas Huston.

18. Claims 10 & 24 are further rejected over of the combined teachings of Towell in view of Thomas Huston. As noted herein, Towell discloses a network control system coupled to the server for managing content stored in the cache, (per pending Claim 10), by pushing content to the cache system and deleting content from the cache system, (per pending Claim 24), (Figs. 1A & 1B; Col. 3, lines 37-42; Col. 5, lines 16-18; Col. 8, lines 35-62). Thomas Huston also teaches automatic deletion of cache content,

(Thomas Huston – paragraph # 0057). Thus, Claims 10 & 24 are further found to be unpatentable over the combined teachings of Towell, Gidwani & Thomas Huston.

Response to Arguments

19. Applicant's arguments filed 18 April 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

20. Regarding Applicant's argument that the prior art does not teach a "cache coupled to the server for storing digital documents sent by the server when ordered by a given number of customers above a threshold amount", (as noted within the amended claim language), Examiner notes that said language has not been considered for examination purposes as noted herein above. Additionally, Examiner notes that the prior art does indeed teach that the amount of time a document is maintained in the cache is based on the number of orders placed for the given document. Specifically, as noted by Applicant, Huston teaches deleting cache content after no orders for the content have been placed for a specified amount of time, wherein zero is a number, and wherein zero orders having been placed after a set amount of time is determinative of cache document maintenance. Further, in response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "dynamically created time amounts based on

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the number of orders") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Specifically, Applicant makes no mention of a "dynamic" time amount in the claim language, and as noted above, the prior art clearly reads upon the claim language as written.

21. Examiner has addressed Applicant's Amendment, and has further rejected all claims, as noted herein above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

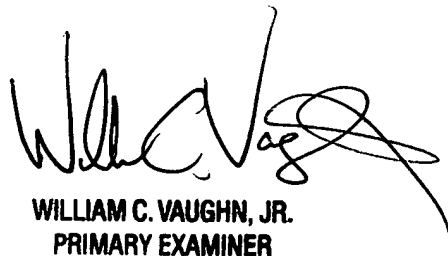
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML

Arrienne M. Lezak
Examiner
Art Unit 2143d



WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER